

in the teleconference with the undersigned on August 17, 2000. The Examiner's courtesy during that interview is appreciated. As explained below, these amendments will place the application in condition for allowance.

The Examiner finally rejected claims 1 and 8 as unpatentable under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,377,693 issued to Loper et al. Claims 1-20 have been cancelled. Thus, this rejection is moot.

The Examiner finally rejected claims 21-23¹, 25-28 and 30-35 as unpatentable under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,123,407 issued to Dewhurst. Reconsideration is requested.

As amended herein independent claim 21 is directed to an athletic garment with guard members on the inner thigh areas. The inner thigh areas of the garment supporting the guard members are not substantially thicker than the other areas of the thigh portions of the garment. This feature of the claimed garment is apparent from the drawings and the description, and essential to the intended use of the garment. The garment is intended for wear during athletic and sports activities, such as playing baseball. The guard members protect the tender inner thighs of the wearer against blows particularly from flying objects such as baseballs. See the specification at page 1, lines 7-17; page 2, lines 16-18; and page 4, line 22 through page 5, line 2. However, as shown and described in the specification, these pads are relatively thin so as not to create a protrusion or obstruction between the wearer's legs.

¹ In paragraph 2 of the Office action, the Examiner recited "Claims 22, 23 ..." as being rejected over Dewhurst. It is believed that the Examiner intended to include claim 21 in this rejection, as it is included in the supporting discussion. Accordingly, Applicant has discussed independent claim 21 in this amendment.

Dewhurst shows a hip alignment apparatus for keeping the legs separated and the spine aligned during sleep. As best seen in Figures 3 and 5 of the patent, the pads in this garment are wedge-shaped with the larger end on the lower aspect of the inner thigh to space the knees apart. See Column 3, lines 45-53. Thus, the inner thigh areas of the Dewhurst garment have a much greater thickness than the other aspects of the thigh portions. In other words, the purpose of the inner thigh pads in Dewhurst is to obstruct the space between the legs to keep the legs apart. Clearly, Dewhurst does not teach or suggest the athletic garment of Applicants' claim 1 with its relatively thin thigh guards.

Claims 22, 23, 25-28 and 30-35 all depend directly or indirectly from independent claim 21 and include all of the features of claim 21. Accordingly, these claims likewise are patentable over Dewhurst.

The Examiner rejected claims 2-4 as unpatentable under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,377,693 issued to Loper et al. As claims 2-4 have been cancelled, this rejection is moot.

The Examiner rejected claims 5-20 as unpatentable under 35 U.S.C. § 103(a) as obvious over Loper et al. As claims 5-20 have been cancelled, this rejection is moot.

The Examiner rejected claims 29 and 36-40 as unpatentable under 35 U.S.C. § 103(a) as obvious over Loper et al. in view of U.S. Patent No. 5,134,726 issued to Ross. Reconsideration is requested.

Claims 29 and 36-40 depend from claim 21 and include all the features of claim 21. Like Dewhurst, discussed above, Loper et al. is directed to a leg alignment garment with very thick spacer pads on the inside of the thighs to keep the knees apart during slumber. Loper et al. does not show or suggest Applicants' claimed athletic garment in which the guard

members on the inner thigh do not make the inner thighs substantially thicker than the other areas of the thigh portions of the garment.

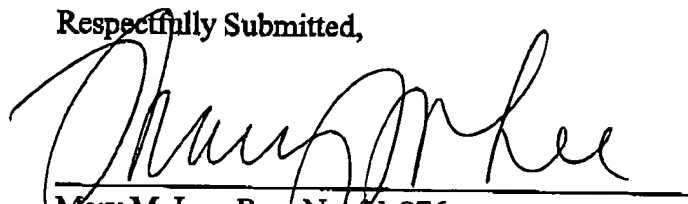
Ross shows sports pants with protective pads, but none of the pads in this garment are near the inner thigh. Moreover, there is nothing in either of these references to suggest the modifications required to produce Applicants' garment with its non-obstructive inner thigh guards. Indeed, such a modification would destroy the intended purpose of Loper et al., that is, to space the knees apart. Thus, claims 21-40 are patentable over Loper et al. and Ross.

Based on the foregoing, it is submitted that Applicants' athletic garment of amended claims 21-40 is patentable over Dewhurst, Loper et al. and Ross, whether these references are considered separately or in any combination. A Notice of Allowance is courteously solicited.

If the Examiner has any questions or comments concerning the instant application or this Amendment, the Examiner is invited to contact the undersigned.

This is intended to be a complete response to the Office action mailed July 27, 2000.

Respectfully Submitted,



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